

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

Northern Division

Kim Daniel Kubczak

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Bay County Sheriff Department

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case: 1:21-cv-11804

Judge: Ludington, Thomas L.

MJ: Morris, Patricia T.

Filed: 07-29-2021 At 12:19 PM

CMP KIM KUBCZAK V BAY COUNTY SHERIFF DEPT (SS)

Jury Trial: (check one) ☐ Yes ☒ No

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Kim Kubczak

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Kim Kubczak

Street Address

297 State Park Drive

City and County

Bay City Bay County

State and Zip Code

Mich. 48706

Telephone Number

989-684-3317

E-mail Address

KimKubczak@gmail.com

B.

The Defendant(s)

Bay County Sheriff Department

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name Bay County Sheriffs Department
Job or Title *(if known)* _____
Street Address 503 3rd St.
City and County Bay City Bay County
State and Zip Code Mich. 48708
Telephone Number 989-895-4050
E-mail Address *(if known)* _____

Defendant No. 2

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

Defendant No. 3

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

Defendant No. 4

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*



Federal question



Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

American with Disabilities Act
Rehabilitation Act

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)*

, is a citizen of the

State of *(name)*

b. If the plaintiff is a corporation

The plaintiff, *(name)*

, is incorporated

under the laws of the State of *(name)*

and has its principal place of business in the State of *(name)*

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)*

, is a citizen of

the State of *(name)*

. Or is a citizen of

(foreign nation)

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under _____,
 the laws of the State of (name) _____, and has its
 principal place of business in the State of (name) _____.
 Or is incorporated under the laws of (foreign nation) _____,
 and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

"see attached"

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Compensatory Damages
 5000.00 → lawyers
 555.00 → court costs
 200.00 → anger management

Punitive Damages = 30,000.00 → "deliberate indifference"

ADA Lawyers Fees for Policies, Procedures, Training
 in effect Aug. 23, 2018 → reviewing and modifying

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 7-29-2021

Signature of Plaintiff



Printed Name of Plaintiff

Kim Kubezak

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

1. On 8-23-18 Deputy Berg lied in police report

case # 1810905916. He was working for Bay County Sheriff Department. My wife, Mary Kubzek, told him I had severe hearing problem repeatedly. Deputy Berg said nothing. The other deputy with him said "I don't know what you are trying to pull. He can hear fine." Deputy Berg stated in police report -- Kim told me he had very bad hearing and I asked him if he was hearing aids which he said he was. This never happened.

2. I was discriminated against because I have a nonvisible disability.

Because I lost my hearing at 15 years old my speech is good. I read lips but cannot get every word spoken, which would lead to miscommunication in an interview. I wear one hearing aid. It helps but does not take care of hearing problem. I have no hearing in my right ear and about 25% hearing in left ear. I will enclose my hearing test from Bay Area Hearing.

3. After my wife told them of my severe hearing disability, Deputy Berg did not ask how I would like to communicate with them.

I would have told them I wanted them to write questions out. If Deputy Berg would have asked me about the "random witness" I could have told him that he was with the woman in Walmart's lot. He slid into driver's seat after the woman got out to confront me. He was the one that followed me to nearby lot. I told him to "stop following me." In the 2 hour gap in time that took deputies to get to Walmart, the man portraying himself as "random witness" had talked to Deputy Berg on the phone and said I had repeatedly pushed the woman with my van and I had told him "stop following me or I will kill you." This man ~~is~~ an ex-convict and knew how to get me in trouble with deputies.

Case 1:21-cv-11804-TLL-PTM ECF No. 1 PageID.7 Filed 07/29/21 Page 7 of 12
4. The people involved that did not have hearing disabilities were able to communicate with the deputies better than I was. It should have been equal.

When I parked I saw by lip-reading the woman across from me was cursing at me and very angry. When I walked by her car I ask her what the problem was. I could see she was so angry that I decided to move to another area of lot because I was afraid they were going to damage my van when I was in the store. Because of what the ex-convict that was with the woman had told deputies it was a very tense time in garage. I could tell deputies were on high alert and I did not know why. I totally cooperated with them and was trying to lip-read as best I could. Because it was so tense I did not

tell them I was hearing impaired.

After they put handcuffs on me, that is when I told them to tell my wife in the house what was going on. She came out and repeatedly told them I had severe hearing disability.

5. My hearing disability contributed to my being arrested for felonious assault with dangerous weapon. The deputies' refusal to acknowledge I had hearing disability contributed to my arrest.

Deputy Berg had watched the video. My wife did not know what had happened and the deputy wanted her to ask me questions ~~of her own~~. ~~at that time~~ I told Deputy Berg

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I saw woman hit my passenger window quickly with her hand. I said I did not know where woman was after that. Somehow when I said she had hit my van, Deputy Berg took it that I knew I was hitting the woman as I was backing up. It wasn't until I saw video months later that I saw I had hit woman as she was trying to take picture of my license plate at back of van. In police report Deputy Berg asked if I had heard anyone screaming. I told him I had not. Not only I would not have heard because of hearing problem but also windows were rolled up and air-conditioning was on in my van. I had accidentally hit her when backing up and they were saying I intentionally hit her when backing up.

6. After arrested I was not given telecommunication device ^{for hard of hearing} to call my wife.

Deputy Berg told my wife several times I was going to be able to call her on phone. Both times my wife told them I could not hear on the phone. That was the last thing she told them as we were leaving. They had me try to call my wife first time and I could hear nothing and I hung up. Employee must have realized there was problem and put phone call to my wife-handled phone to me ^{and I} still could not hear anything.

Page 1

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Kim Daniel Kubczak

DEFENDANTS

Bay County Sheriff Department

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

Bay

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

Bay

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Kim Kubczak
297 State Park Dr.
Bay City, Mich. 48706

Pro Se

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 STATE TORTS <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title II of the Americans with Disabilities Act; Section 504 Rehabilitation Act
 Brief description of cause: et al state and local governments
 Title II program, services, activities accessible to disabled; disabled not excluded agency receiving federal funds

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

8-29-2021

SIGNATURE OF ATTORNEY OF RECORD

Kim D. Kubczak

Pro Se

FOR OFFICE USE ONLY

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

U.S. POSTAGE PAID
EPC 16 EFW
48706
JUL 29, 21
AMOUNT
\$2.00
R2303S102149-13



1000

Kim Kubezak
297 State Park Drive
Bay City, Mich. 48706

7-29-21

RECEIVED

AUG - 5 2021

CLERK'S OFFICE
DETROIT

United States District Court
Office of the Clerk
P.O. Box 913
Bay City, Mich. 48707

New
Car
10/20/2020

FILED

JUN 30 2021

U.S. DISTRICT COURT
BAY CITY, MICHIGAN

45

#2 8.5in x 11in Inside dimensions
21.6cm x 27.9cm Dimensiones interiores



14-11664 • RECORDER 10011-2A



#2 8.5in x 11in Inside dimensions
21.6cm x 27.9cm Dimensiones interiores